

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Twenty-Second Judicial District Court, County of Stillwater

STATE OF MONTANA,)	
)	
Plaintiff,)	
)	CAUSE NO. DC-17-037
-vs-)	
)	DECISION
NICOLE MARIE WELLIVER,)	
)	
Defendant.)	

On April 26, 2018, Defendant was sentenced for Count I: Criminal Possession of Dangerous Drugs, a felony, to five years in a women's prison designated by the Department of Corrections, with no time suspended, and a \$1000 fine. As to Count II: Criminal Possession of Dangerous Drugs, a misdemeanor, Defendant was sentenced to six months in jail. As to Count V: Driving While Suspended or Revoked, Defendant was sentenced to six months in jail, with all but 2 days suspended. All sentences were ordered to run concurrently to each other. The Court recommended Defendant be screened for the Elkhorn Treatment Center or similar programming to treat her substantial chemical dependency issues. Defendant received credit for time served of 97 days.

On October 5, 2018, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by videoconferencing from the Gallatin County Detention Center and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that she understood this and stated that she wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.


Done in open Court this 5th day of October, 2018.

DATED this 19 day of OCTOBER, 2018.

SENTENCE REVIEW DIVISION

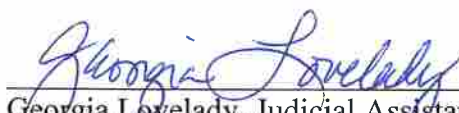

Hon. Kathy Seeley, Chairperson


Hon. Brenda Gilbert, Member


Hon. Dan Wilson, Member

Copies mailed this 7th day
of November, 2018, to:

Clerk of District Court (Original)
Nicole Marie Welliver #2022098, Defendant (2)
Hon. Blair Jones
Brent Getty, Defense Counsel
Nancy L. Rohde, Esq.
Board of Pardons and Parole
MWP - Records Dept.


Georgia Lovelady, Judicial Assistant
Sentence Review Division